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C.M.A.No.2790 of 2025 and C.M.P. No.23698 of 2025
IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM

DATED: 09.12.2025

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI,J.

C.M.A.No.2790 of 2025 and C.M.P. No.23698 of 2025

M/s. Hotel Picnic Plaza

Represented by its Partner

Devendra Gupta

No.2, R.K. Mutt Road

Chennai 600 004.

...Appellant

Vs.

The Assistant Director

E.S.I. Corporation,

No.143, Sterling Road,

Nungambakkam, Chennai 600 034.

... Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 82 of the Employees State Insurance Act,1948, against the order and decree dated 08.08.2025 passed in ESIOP No.105 of 2006 on the file of the Employees Insurance Court, (Principal Labour Court), Chennai.

For Appellant : Mr. R. Vishnu

For Respondent : Mr. R. Sreedhar



WEB COPY



C.M.A.No.2790 of 2025 and C.M.P. No.23698 of 2025

JUDGMENT

The appeal is preferred against the order and decree dated 08.08.2025 passed in ESIOP No.105 of 2006 on the file of the Employees Insurance Court, (Principal Labour Court), Chennai.

2. According to the appellant, the order was passed by the respondent ESI Corporation under Section 45A of the ESI Act, 1948, without adhering to the procedural safeguards under Section 45 of the Act. It is submitted that the respondent ESI Corporation issued a single show cause notice without verification of its service on the authorised representatives and without providing a reasonable opportunity of hearing, passed the impugned order, which warrants interference by this Court.

3. The facts of the case is that, Hotel Picnic Plaza is a part of Picnic Hotels Private Limited, run by the petitioner along with two persons and since dispute arose between the partners, the matter was referred to Company Law Board and, from 15.10.2005, in pursuant to the proceedings dated 14.10.2005

2/6



C.M.A.No.2790 of 2025 and C.M.P. No.23698 of 2025

passed by the Company Law Board, the Management of the Hotel was handed

over to Mr.Devendra Gupta. Though the management changed, no records were handed over by the erstwhile partner. Under such Circumstances, the respondent issued an order dated 15.02.2006 under form C-19 directing the Recovery Officer to recover a sum of Rs.37,727/- with interest from 01.02.2006 from the appellant/petitioner. He further submitted that the respondent claimed contribution of Rs.30,450/- for the period from 12/2003 to 09/2004 with interest of Rs.728/-. While so, the respondent ESI Corporation, passed the order under Section 45A of the ESI Act, without following the principles of natural justice. The Employee Insurance Court, without considering the above facts, dismissed the petition filed by the appellant and therefore, the present appeal is preferred. The learned counsel for the appellant would submit that, the principles of natural justice were violated as the appellant was not provided reasonable opportunity to respond before the Board and that the show cause notice dated 31.03.2005 was never served upon the petitioner Firm. While so, the order of proceedings passed under Section 45A has to be set aside.



C.M.A.No.2790 of 2025 and C.M.P. No.23698 of 2025

4. The above contention of the learned counsel for the appellant was opposed by the learned counsel for the respondent. He would submit that the show cause notice was served upon the authorised person. The petitioner neither appeared before the respondent nor submitted any record. Therefore, an order under Section 45A came to be passed on 26.09.2005.

5. Considering the facts and circumstances of the case, this Court deems it fit to remit back the matter to the respondent for fresh consideration affording sufficient opportunity to the appellant to put forth all his contentions before the respondent and for producing necessary evidence.

6. Accordingly, the Civil Miscellaneous Appeal is disposed of with a direction to the respondent to afford sufficient opportunity to the appellant and pass appropriate orders in accordance with law within a period of 3 months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

09.12.2025

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4/6



C.M.A.No.2790 of 2025 and C.M.P. No.23698 of 2025

WEB COPY

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To

1. The Presiding Officer,
Employees Insurance Court, (Principal Labour Court), Chennai.
2. The Section Officer,
VR Section, High Court, Madras.



WEB COPY



C.M.A.No.2790 of 2025 and C.M.P. No.23698 of 2025

K.GOVINDARAJAN THILAKAVADI, J.

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